

Article - Natural Resources

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§8-1808.2.

(a) (1) In this section the following words have the meanings indicated.

(2) “Bona fide intrafamily transfer” means a transfer to a member of the owner’s immediate family of a portion of the owner’s property for the purpose of establishing a residence for that family member.

(3) “Immediate family” means a father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter, or sibling.

(b) Notwithstanding density limitations established in criteria of the Commission, as part of its local program, a local jurisdiction may submit provisions by which an owner of a parcel of land in the resource conservation area may be permitted to make bona fide intrafamily transfers.

(c) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of its local program, the local jurisdiction shall permit a bona fide intrafamily transfer to be made only from parcels of land that:

(1) Were of record on March 1, 1986 in the Chesapeake Bay Critical Area or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and

(2) Are 7 acres or more and less than 60 acres in size.

(d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to local approval under Title 5 or Title 23 of the Land Use Article or under any subdivision control provisions of a charter county.

(e) (1) A local jurisdiction:

(i) May approve the subdivision of a parcel of land into the number of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

(ii) May not approve any greater subdivision of the parcel of land or any portion of the parcel of land.

(2) A parcel that is 7 acres or more and less than 12 acres in size may be subdivided into 2 lots.

(3) A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into 3 lots. The lots may be created at different times.

(f) (1) As a condition of approval, a local jurisdiction shall require that:

(i) Any deed for a lot that is created by a bona fide intrafamily transfer shall contain a covenant stating that the lot is created subject to the provisions of this section; and

(ii) A lot created by a bona fide intrafamily transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under procedures established pursuant to subsection (g) of this section.

(2) This subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.

(g) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of the local jurisdiction's local program, the local jurisdiction shall establish standards and procedures, subject to the approval of the Commission, by which the local jurisdiction will permit the subsequent conveyance of lots to persons other than immediate family members. The standards and procedures shall assure that:

(1) The lot was created as part of a bona fide intrafamily transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and

(2) (i) A change in circumstances has occurred since the original transfer was made that is not inconsistent with this subtitle and that warrants an exception; or

(ii) Other circumstances that are consistent with this subtitle and with the Commission's criteria to maintain land areas necessary to support the protective uses of agriculture, forestry, open space, and natural habitats in resource conservation areas warrant an exception.

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